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*Attorney for Defendants U.S. EPA and its
 Administrator*

IN THE UNITED STATES DISTRICT COURT
 FOR THE NORTHERN DISTRICT OF CALIFORNIA

SAN FRANCISCO BAYKEEPER; SAVE
 THE BAY; COMMITTEE FOR GREEN
 FOOTHILLS; CITIZENS' COMMITTEE
 TO COMPLETE THE REFUGE; and STATE
 OF CALIFORNIA, by and through
 XAVIER BECERRA, ATTORNEY GENERAL,

Plaintiffs,

v.

U.S. ENVIRONMENTAL PROTECTION
 AGENCY AND ITS ADMINISTRATOR,

Defendants,

REDWOOD CITY PLANT SITE, LLC,

Intervenor-
 Defendants.

Case No: 3:19-cv-05941-WHA (lead case)

Consolidated with

Case No: 3:19-cv-05943-WHA

NOTICE OF FILING PRIVILEGE LOG

Pursuant to the Court's Order dated March 16, 2020 (ECF No. 64), the defendants, United States Environmental Protection Agency and its Administrator (collectively, "EPA"), hereby file a privilege log respecting EPA's March 1, 2019 special-case Clean Water Act jurisdictional determination pertaining to 1,365 contiguous acres comprising the Redwood City Salt Plant site in Redwood City, San Mateo County, California.

EPA has included in its administrative record the set of non-deliberative documents that the decision-maker considered, directly or indirectly (*e.g.*, through staff) in making the March 1, 2019 determination. As previously explained, "there is no requirement . . . to assert a claim of privilege under EPA's definition of the administrative record" because "deliberative documents,

1 i.e., documents reflecting the agency's or agencies' pre-decisional deliberative process, are not
 2 part of the administrative record" Notice of Filing Certified Index to the Administrative
 3 Record dated Mar. 4, 2020 (ECF No. 53) at 2 (citing, *inter alia*, EPA's *Administrative Records*
 4 *Guidance* dated Sept. 2011 (ECF No. 53-1) at 4). *See also* Notice of Filing Certified Addendum
 5 to the Administrative Record dated Mar. 11, 2020 (ECF No. 55) at 1-2 (citing, *inter alia*, *Oceana*
 6 *v. Ross*, 920 F.3d 855, 865 (D.C. Cir. 2019)).

7 In accordance with the Court's Order, EPA hereby provides a log of deliberative documents
 8 that the decision-maker considered, directly or indirectly (*e.g.*, through staff) in making the March
 9 1, 2019 determination. Further, for each document on the log, EPA advances any assertion of
 10 attorney-client privilege and/or work product protection (in addition to deliberative process
 11 privilege).

12 The privilege log is attached to this Notice.

13
 14 Dated: March 26, 2020

Respectfully submitted,

15 /s Andrew J. Doyle

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